**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 663 OF 2007**
**IN**
**CRIMINAL APPEAL NO. 545 OF 2007**

Satish D. Jagtap & Ors. ..Applicants (Ori. Accused Nos. 1 to 4)

versus

State of Maharashtra ..Respondents

Mr. B. R. Patil i/b. K. S. Patil for the Applicants / Original Accused Nos. 1 to 4.

Mr. P. S. Hingorani, APP for the Respondents - State.

**CORAM : D. G. DESHPANDE, &**
**SMT. NISHITA MHATRE, JJ.**

**DATE : 27TH JUNE, 2007.**

**P.C.**

1. Heard Advocate for the Appellants / Original Accused Nos. 1 to 4 and the learned APP. Advocate for the Applicants does not pray for bail for Applicant No. 1 / Original Accused No.1, at least, at this stage.

2. So far as other Applicants / i.e. Original Accused Nos. 2, 3 and 4 are concerned, there is no

recovery of weapons of assault from them. Recovery of weapons is from the Applicant / Original accused No.1. Out of the 8 eye witnesses, 6 witnesses turned hostile and when only 2 eye witnesses supported the prosecution, it should not have been believed by the trial court. According to Mr. Patil, even though they were eye witnesses, their statements came to be recorded 10-11 days after the incident.

3. We have verified this from the judgment and the learned APP also admitted that the statements of those two witnesses were recorded 10-11 days after the incident. This is a serious lapse on the part of the investigation entitling the Applicant / Original Accused Nos. 2. 3 and 4 to bail.

4. However, looking to the nature of the incident and the nature of assault, it is necessary to impose conditions upon them.

5. In the result, application for bail of Applicant / Original No.1 is allowed to be withdrawn. Applicant / Original Accused Nos. 2, 3 and 4 be released on their furnishing P.R. bond in

the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one or two solvent sureties, each, in the like amount. Their substantive sentences are suspended pending Appeal. They will have to pay fine before they are released on bail. They shall not stay in Bhekrai Nagar, Phursungi, Tal : Haveli, Dist : Pune, for a period of one year after they are released on bail. They should furnish to the police their addresses where they are going to stay during the period of one year. They will also mark their presence in the nearest police station once in a month in the first week. Application disposed of in the above terms.

**(SMT. NISHITA MHATRE, J.)** **(D.G. DESHPANDE, J.)**